

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**COURT - 2**

ITEM No.301  
IA(Liq)/21(AHM)2024  
in  
CP(IB)/186(AHM)2022

**Proceedings under Section 33 & 34 of IBC,2016**

**IN THE MATTER OF:**

Mr.Sunit Jagdishchandra Shah RP of M/s.Miku Polymers &  
Plastics Limited

.....Applicant

V/s

.....Respondent

Mr.Arpit Hathi & Others

**Order delivered on: 23/04/2025**

**Coram:**

**Mrs. Chitra Hankare, Hon'ble Member(J)**

**Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)**

**ORDER**

The case is fixed for pronouncement for today.

The order is pronounced in open court vide separate sheet.

-sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD (COURT - II)**

**IA (Liq.) 21 OF 2024  
IN  
CP (IB) NO. 186/NCLT/AHM/2022**

*(An application filed under Section 33 and 34 of the  
Insolvency & Bankruptcy Code, 2016)*

**MEMO OF PARTIES**

**Mr. Sunit Jagdishchandra Shah**

Resolution Professional  
of M/s. Miku Polymers & Plastics Limited  
Having address at:  
801-802, 8th Floor, Abhijeet-1,  
Opp. Bhuj Mercantile Bank,  
Mithakali Six Roads, Navrangpura,  
Ahmedabad-380009

...Applicant

Versus

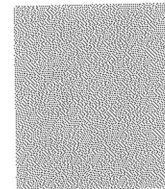
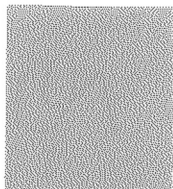
1. Mr. Arpit Hathi  
(Ex-director of Corporate Debtor)  
Having Address at:  
D-1/2 Jantanagar Housing Society,  
Sayed Vasana Road, Vadodara-390021
2. Mr. Utkarsh Hathi  
(Ex-director of Corporate Debtor)  
Having Address at:  
D-1/2 Jantanagar Housing Society,  
Sayed Vasana Road, Vadodara-390021
3. Bharat Dhirajlal Mehta  
(Ex-director of Corporate Debtor)  
Having Address at:  
201/2, Sun Shine, 33 Harinagar Soc,  
Race Course, Gotri Road,  
Vadodara Gujarat -390021



4. Kinnari Kartikey Hariyani  
(Ex-director of Corporate Debtor)  
Having Address at:  
E-103, Nilamber Bellissimo B/h  
Bansal Mall, Vasana, Gotri Road,  
Vadodara Gujarat-391410
  
5. Malvik Kantilal Hathi  
Through Legal Heir  
(Ex-director of Corporate Debtor)  
Having Address at: D 1-2, Janta  
Nagar Society Vasna road,  
Vadodara, Gujarat-390020
  
6. Bank of Baroda  
(Secured Creditor)  
Having Address at:  
28th Floor, Kamdhenu Complex,  
Panjrapole Cross Road,  
Ambawadi, Ahmedabad-380015
  
7. State Bank of India  
(Secured Creditor)  
Having Address at:  
28th Floor, Paramsiddhi Complex,  
Opp. V.S. Hospital, Near Ellisbridgem  
Ahmedabad-380006
  
8. Tata Capital Financial Services Limited  
(unsecured creditor)  
Having Address at:  
11th Floor, Tower A, Peninsula  
Business Park, Ganpatrao,  
Kadam Marg, Lower Parel,  
Mumbai-400013

...Respondents

Order Pronounced on 23.04.2025





**Coram:**

**MRS. CHITRA HANKARE,  
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**


**Appearance:**

For the Applicant : Mr. Nipun Singhvi, Adv. a.w. Mr.  
Vishal J. Dave, Adv.  
For the Bank of Baroda : Mr. Monaal Davawala, Adv.  
For the Tata Capital : Mr. Arjun Sheth, Adv. a.w. Mr. Rajiv  
Chawla, Adv.  
RP in Person : Mr. Sunit Shah

**JUDGEMENT**


1. This instant application is filed by Resolution Professional of the Corporate Debtor- M/s Miku Polymer & Plastics Limited (hereinafter refer to the "Corporate Debtor") under section 33 and 34 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) for liquidation of the Corporate Debtor.
2. The averments made by Counsel for the applicant are as follows:

- a. This Adjudicating Authority *vide* its order dated 11.07.2023 admitted the Petition under section 9 of the Code, filed by the Operational Creditor for initiation of Corporate Insolvency Resolution Process (herein after referred to as the "CIRP")



against Corporate Debtor. Mr. Rahul Shah was appointed as the Interim Resolution Professional (hereinafter referred to as the "IRP") of the Corporate Debtor by this Tribunal.

- b. The IRP made public announcement in Form-A of CIRP of the Corporate Debtor on 15.07.2023 for inviting claims from the Creditors. The IRP then constituted the Committee of Creditors on 04.08.2023. The said committee consisted of only 3 Financial Creditors, viz, Bank of Baroda, State Bank of India and Tata Capital Financial Services Limited.
- c. The 2nd CoC meeting was held on 04.09.2023, wherein the applicant RP replaced the earlier RP. The Applicant had published Form-G on 11.10.2023 for inviting EOI for submission of Resolution Plan.
- d. In the 5<sup>th</sup> CoC meeting held on 15.12.2023, the applicant placed the Resolution Plan before the CoC proposed by Resolution Applicant i.e. Manojkumar Jagdishprasad Choukhany. Further, in the 8<sup>th</sup> CoC



meeting held on 02.02.2024, the applicant put the resolution for approval of Resolution Plan or initiation of Liquidation Process before the CoC.

- e. In the 15<sup>th</sup> CoC meeting held on 24.05.2024 the applicant apprised that resolution for approval of Resolution Plan has not been approved with 66% of requisite voting. Therefore, an application for initiation of Liquidation process was filed bearing IA(liq.) No. 15 of 2024 which was subsequently withdrawn by the RP.
- f. The 16<sup>th</sup> CoC meeting held on 06.07.2024. The applicant apprised the CoC that the resolution for initiation of liquidation process has not been passed with the required percentage i.e. 66%. The CoC resolved as follows:-

*“During the course of CoC meeting, the majority of CoC member were of opinion that their intent is the maximization of value. It is the commercial wisdom of CoC members to accept or reject the resolution plan. It was discussed that as the resolution plan is not approved by the required percentage, it will be deemed initiation of liquidation process.*



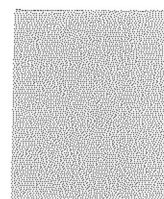
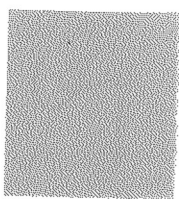
*It was then decided by the CoC members in the meeting that the resolutions as passed in the previous meeting i.e. 14th and 15th CoC meetings will remain same and it is not required to further put the same resolution i.e. "Approval of Resolution Plan" or "Initiation of Liquidation process for e voting.*


*Therefore the said agenda was concluded by informing the RP that the RP will again file the application for initiation of liquidation process."*

- g. The CoC in its 17<sup>th</sup> meeting held on 20.07.2024 having 63.45% of voting rights voted in favour of liquidation and resolution for approval of resolution plan was rejected.

3. This Tribunal *vide* order dated 25.11.2024 directed the applicant to convene the meeting of CoC to see if the matter could be resolved to avoid liquidation or start a fresh resolution process. Further, the RP was directed to file detailed statement of the assets on date of CIRP and on date of approval of resolution plan with valuation certificates.

4. In compliance of the aforesaid order, the RP convened 18<sup>th</sup> CoC meeting on 02.12.2024 pertaining to the initiation of a fresh Resolution Process for the Corporate Debtor by issuing fresh Form G for inviting Expressions of Interest (EoI) from





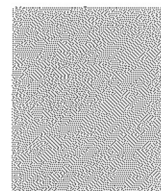
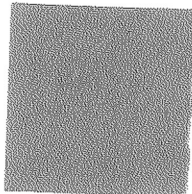
PRA's. It is further submitted that CoC had by 100% voting rejected the resolution for initiation of fresh resolution process for corporate debtor by issuing fresh Form G. The applicant further submitted that as on date of CIRP and as on date of approval of resolution plan no change occurred in the class of assets. The applicant placed on record the valuation reports of 2 valuers each for Securities and Financial Assets and for fixed assets appointed by him for the valuation of the assets of the Corporate Debtor.

5. This Tribunal *vide* order dated 10.01.2025 directed the Respondents (Financial Creditors) to file their no objection in this matter. In compliance of the said order, the financial creditors i.e. State Bank of India and Bank of Baroda filed pursis dated 23.01.2025 and 03.03.2025 respectively stating that they have no objection towards allowing the Liquidation Application filed in the present matter. Further, Respondent No. 8 filed its reply dated 22.01.2025 submitting that it has no objection if the liquidation application is allowed against the Corporate Debtor.

6. Heard the learned counsels for the applicant and the respondents. Perused the documents available on record.



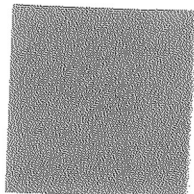
7. In view of the above, it is noted that the COC by its commercial wisdom rejected the resolution plans submitted by the RP. The reasons for rejection of the resolution plans were not stated properly in the application. It is stated that one of the Financial Creditors had negotiated for improvement in the submitted resolution plan on 12.02.2024 and kept the e-voting on hold. In the 10<sup>th</sup> COC meeting held on 28.03.2024, the COC had discussed about prospect of recovery of funds and extension of CIRP was sought. In the 13<sup>th</sup> and 14<sup>th</sup> COC meeting dated 02.05.2024, a proposal for filing a resolution plan for approval was considered along with a proposal for initiation of liquidation. On 20.05. 2024 the COC resolved to liquidate the CD and file an application with an e-voting of 63.45% which was lesser than the requisite majority of 66% in terms of Section 28(3) of the IBC 2016. Meanwhile an application filed bearing IA No. 773 of 2024 was allowed granting extension of CIRP from 06.05.2024 for 30 days and another IA (Liq) 15 of 2024 was listed for hearing wherein permission to grant permission to withdraw the Liquidation application was allowed. Even though in the 17<sup>th</sup> COC





meeting dated 20.07.2024 had voted only with 63.45% of voting rights in favor of liquidation, an application was filed by the RP under Section 33 of the IBC for liquidation. Of the 3 financial creditors, SBI with 60.08% voting rights and Tata Capital Financial Services Limited with 3.37% of voting rights had voted in favour while Bank of Baroda with 36.55% did not favour the liquidation of the CD.

8. The resolution plan stated to have been submitted by one Mr. Manoj Kumar Jagdishprasad Choukhany proposed by the RP was rejected by the COC as only Bank of Baroda having 36.55% voting share approved the Resolution Plan. Full details of the Value of the Resolution Plan is not submitted nor the number of bidders.
9. The fair value and liquidation value as per the Form H and the valuation reports are mentioned to be of Rs.56,78,925/- and Rs.39,86,597.5/- respectively.
10. This tribunal vide order dated 25.11.2024 directed the COC in view of the impasse and absence of majority to approve the liquidation and to start a fresh resolution process, directed the matter to be re-considered by COC. But the COC in its meeting held on 02.12.2024, rejected the

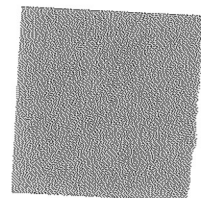
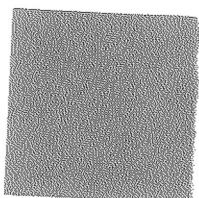




resolution to approve issue of fresh Form G and invite EOIs for the CD.

11. We observe from the valuation reports that of the total book value of Rs.1,22,61,52,049/- of the CD, Rs.1,14,89,97,845/- comprises of trade receivables. The total claim of the creditors admitted by the RP amounts to Rs.89,17,14,482/- from the financial creditors and Rs.3,81,19,430/- from the operational creditors. There has been impasse, absence of consensus between two financial creditors in the matter and the Operational Creditor who moved the application under Section 9 of IBC, 2016 has a claim admitted of Rs.3,18,84,441.72/-. One of the respondents i.e. Respondent No. 5 from the suspended management is stated to have been expired and was represented through the legal heir.

12. One learned Counsel appeared for Respondent No.6 Bank of Baroda filed pursis dated 03.03.2025 (stating for R 5 - seems inadvertently) that they are agreeable to take CD into liquidation as this is second round of litigation. Further, SBI and Tata Capital being Respondent No. 7 and Respondent No. 8 respectively have also consented to liquidation.

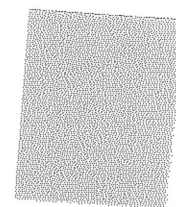
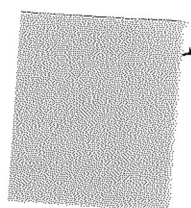





13. In view of the above, even though proper records of any resolution plan that was considered has not been submitted, a proper process of resolving the entity has not been conducted by the RP, this also seems to be the result of one of the financial creditors dissenting on a resolution process by individually seeking higher bids from the only prospective resolution applicant. Hence, without further delay, since the CIRP was admitted on 11.07.2023, with no further progress expected in resolving the CD, we deem it fit to take the CD in to liquidation under Section 33 (1) of IBC 2016. Hence, we pass the following orders:

**ORDER**


- I. IA (Liq.) 21 of 2024 in CP (IB) No. 186 of 2022 is allowed.
- II. The Liquidation of Corporate Debtor- M/s Miku Polymer & Plastics Limited, is effective from the date of this order and the Moratorium declared *vide* order dated 11.07.2023 in CP(IB) 186 of 2022, henceforth ceases to exist from the date of the order of liquidation.
- III. We hereby appoint Mr. Malav Jitendra Ajmera having IBBI registration no. IBBI/IPA-001/IP-P01190/2018-





2019/11908 and email id –  
malav.ajmera@maassociates.co.in as per the panel  
suggested by IBBI for this Bench as the Liquidator of  
the Corporate Debtor to carry the liquidation process.  
The Liquidator so appointed shall complete the  
Liquidation process as per the provisions of the  
Insolvency and Bankruptcy Code, 2016 r.w. Insolvency  
and Bankruptcy Board of India (Liquidation process)  
Regulation, 2016.

- IV. All the powers of the Board of Directors, key managerial persons, and the partner of the Corporate Debtor, as the case may be, hereafter cease to exist. All these powers henceforth vest with the Liquidator
- V. The personnel of the Corporate Debtor are directed to extend all cooperation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- VI. The Liquidator will charge fees for the conduct of the liquidation proceedings in proportion to the value of the liquidation estate assets as specified by IBBI and




same shall be paid to the Liquidator from the proceed of the liquidation estate under section 53 of the Code.

VII. Once the liquidation process is initiated, subject to section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of section 33 of the Code.

VIII. This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.

IX. The CoC is directed to contribute to the liquidation cost if any short fall occurs from the liquidation value of the Corporate Debtor.

X. This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in liquidation. The Liquidator will



also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workmen/employees could also be informed of this liquidation order through their association.

- XI. The Liquidator is directed to investigate the financial affairs of the Corporate Debtor in terms of the provisions of Section - 35(1) of IBC, 2016 read with relevant rules and regulations and also filed its response for disposal of any pending Company Applications during the process of liquidation.
- XII. The present Resolution Professional is directed to hand over the relevant documents and control of the Corporate Debtor to the newly appointed liquidator forthwith.



XIII. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, IBBI, the resolution professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

XIV. Accordingly, the present I.A.(Liq.) No. 21 of 2024 in CP(IB) 186 of 2022 stands disposed of.

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**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

PH

-sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**